

FILED

JAN 10 2017

Clerk, U.S. District Court
District Of Montana
Helena

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHENCI LINN MORRISON,

Defendant.

CR 13-16-H-CCL

ORDER

On December 12, 2016, this Court referred a Petition for Revocation (Doc. 6) for hearing, findings of fact, and recommendation to Magistrate Judge Johnston by order (Doc. 9).¹ The revocation hearing was held on December 14, 2016. Pending now before the Court is the Report of Findings & Recommendations ("F&R") filed by Magistrate Judge Johnston on December 20,

¹ See 18 U.S. C. §3401(I).

2016 (Doc. 14). The F&R notified the parties of their opportunity to object to the F&R within a 14-day period. The deadline for objections has now passed, and neither party has filed any objection to the F&R.

I. Background

The following factual finding is taken from the F&R:

1. Chanci Lynn Morrison violated her conditions of supervised release by (1) using methamphetamine and (2) committing another crime while on supervised release.

(Doc. 14 at 4.) At the revocation hearing, Defendant Morrison admitted that she violated the conditions of her supervised release. (Doc. 14 at 3.)

In the F&R, Judge Johnston recommends that this Court revoke Defendant's supervised release and sentence her to a term of imprisonment of seven months with a fifty-three month term of supervised release to follow under the same conditions of supervision as previously imposed.

II. Standard of Review

Pursuant to 28 U.S.C. § 636(b)(1) this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” The district judge must review the magistrate judge’s findings and recommendations de novo if objection is made. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). If an objection is made, the court reviews de novo only the portion to which the objection was made, the remainder is reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). No objection having been made, this Court reviews the F&R accordingly.

III. Discussion

This is Defendant’s first revocation proceeding. The Magistrate Judge notified the Defendant that her violation grade is B, her criminal history category is III, and her Chapter 7 Policy Guideline Range is 8-14 months, and that she could be incarcerated for up to 60 months. She was also notified that she could be

required to remain on supervised release for 60 months, less custody time. Neither counsel objected to these findings, and this Court agrees that the guideline range and supervised release findings made by the Magistrate Judge are correct. Both defense counsel and government's counsel agree that a sentence at the low end of the guideline range is appropriate.

IV. Revocation Determination and Sentence

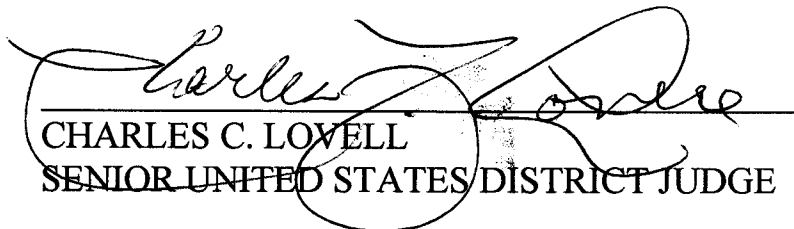
The Court therefore finds by a preponderance of the evidence that Defendant violated two conditions of her supervised release. *See* 18 U.S.C. § 3583(e)(3). Defendant's supervised release should be, and hereby is, revoked, and Defendant Morrison should be resentenced.

Having considered the recommended sentence, the requests of counsel for the Defendant and the government, and the section 3553(a) statutory sentencing factors as made applicable by 18 U.S.C. § 3583(e), and all the record in this case, the Court finds that the appropriate sentence should be as recommended by Magistrate Judge Johnston: seven months in custody followed by a fifty-three

month term of supervised release. The Court adopts Magistrate Judge Johnston's Findings & Recommendations in full and shall enter Judgment accordingly.

The Clerk shall send a copy of this order to Magistrate Judge Johnston and the United States Probation Office.

Done and dated this 10th day of January, 2016.


CHARLES C. LOVELL
SENIOR UNITED STATES DISTRICT JUDGE